

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Date of Arrest: January 3, 2024

UNITED STATES OF AMERICA

Plaintiff,

vs.

Jose Benjamin GARCIA MARISCAL

Citizen of Mexico

YOB: 1998

Defendant.

)
) Magistrate's Case No. **24-01012MJ**
)
) COMPLAINT FOR VIOLATION OF
) 18 U.S.C. § 933 - Trafficking in
) Firearms
) Count One
)
) 18 U.S.C. § 922(g)(5) and
) 924(a)(8) - Possession of a Firearm
) by an Alien Unlawfully Present in
) the United States
) Count Two
)

I, the undersigned complainant, being duly sworn, state that the following is true and correct to the best of my knowledge and belief:

COUNT ONE

On or about January 3, 2024, at or near Somerton, Arizona, within the District of Arizona, Defendant, Jose Benjamin GARCIA MARISCAL, did receive from another person a firearm, to wit: a Glock, model 19X, 9mm pistol, serial number: CBVF598, in or otherwise affecting interstate or foreign commerce, knowing or having reasonable cause to believe that such receipt constituted a felony.

In violation of Title 18, United States Code, Section 933.

COUNT TWO

On or about January 3, 2024, at or near Somerton, Arizona, within the District of Arizona, Defendant, Jose Benjamin GARCIA MARISCAL, knowing he was an alien illegally and unlawfully in the United States, did knowingly possess a firearm, to wit: a Glock, model 19X, 9mm pistol, serial number: CBVF598, which had previously been shipped or transported in interstate or foreign commerce.

In violation of Title 18, United States Code, Sections 922(g)(5) and 924(a)(8).

And the complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

PC

Reviewed by: AUSA Patrick Chapman

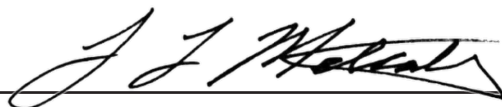
JESUS ALVAREZ

Digitally signed by JESUS
ALVAREZ

Date: 2024.01.03 18:24:28 -07'00'

Jesus Alvarez
Special Agent / ATF

Sworn to before me and subscribed telephonically, on 4th day of
January, 2024, at Yuma, Arizona.



James F. Metcalf
United States Magistrate Judge

STATEMENT OF PROBABLE CAUSE

I, Jesus Alvarez, Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), being duly sworn, declare and state as follows:

INTRODUCTION AND BACKGROUND OF AFFIANT

1. I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and have been since March 2015. I am currently assigned to the ATF Los Angeles Field Division, El Centro Field Office, Yuma Satellite Office.

2. I received my formal training at the Federal Law Enforcement Training Center ("FLETC"), located in Glynco, Georgia, completing both the Criminal Investigator Training Program and Special Agent Basic Training. During these two (2) academies at FLETC, I received specialized training in several law enforcement criteria including, but not limited to, the following: writing of legal documents such as court orders and warrants, the handling of evidence, proper search procedures, and understanding United States Code ("U.S.C.") relating to firearms, explosives, arson, alcohol, and tobacco.

3. As an ATF Special Agent my duties and responsibilities include conducting criminal investigations of individuals and entities for possible violations of federal laws, particularly those laws found in Titles 18, 21, and 26 of the United States Code. I have personally participated in and conducted criminal investigations pertaining to the illegal acquisition of firearms, possession of firearms by prohibited persons, smuggling of firearms and narcotics, investigations involving interstate and international firearms trafficking, and investigations involving narcotics trafficking. As such, the result of many of these investigations have led to arrests, searches, and seizures of individuals, property, firearms, and narcotics involved in violations of Federal laws.

4. In preparing this Affidavit, I conferred with other law enforcement officials who share the opinions and conclusions stated herein. I have personal knowledge of the following facts or have learned them from other law enforcement officers. I also relied on my training, experience, and background in law enforcement to evaluate this information. Since this Affidavit is being submitted for the limited purpose of establishing probable cause for a complaint, I have not included each and every fact or source of information establishing the violation of federal law.

PROBABLE CAUSE

5. In October of 2022, the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) became aware of a suspected straw purchaser identified as Melissa Espinoza. ATF had located an empty firearms box during a separate firearm interdiction. Agents ran the serial number on the empty firearms box and learned Espinoza was the original purchaser of the firearm.

6. On January 3, 2024, agents were made aware Espinoza was attempting to purchase a firearm at *Jones & Jones*, a Federal Firearm Licensee (FFL) in Yuma, Arizona. Agents proceeded to *Jones & Jones* and conducted surveillance on Espinoza. After the firearm purchase, Espinoza exited the business and entered an awaiting vehicle. Agents followed the vehicle to a remote desert area near County 19 in Somerton, Arizona. Aerial surveillance observed a Hispanic male and Hispanic female (Espinoza) discharging a firearm into the desert. The male subject was later identified as Jose Benjamin GARCIA MARISCAL. Upon completion of their target shooting, agents followed the vehicle to Espinoza's residence located at 931 S. Avenue C, Yuma, AZ. Agents contacted Espinoza and GARCIA MARISCAL there.

7. During interviews, Espinoza admitted the firearm was purchased on behalf of GARCIA MARISCAL. Espinoza was paid \$200 for purchasing

the firearm. Espinoza admitted she was not the true purchaser and had lied on the Firearms Transaction Record (ATF Form 4473).

8. GARCIA MARISCAL was interviewed and admitted that the firearm Espinoza purchased was in fact for him. GARCIA MARISCAL wanted the firearm for the sole purpose of learning how to target shoot. GARCIA MARISCAL admitted to being in the United States illegally and knowing he was not allowed to possess firearms. During a consensual search of GARCIA MARISCAL's cellular phone, agents located a video of him shooting the firearm purchased by Espinoza. GARCIA MARISCAL said he took the video to send to his girlfriend.

9. GARCIA MARISCAL was previously removed from the United States and was convicted on April 4, 2022, of a violation of 8 U.S.C. § 1325 - Improper entry by Alien, and sentenced to 90 days in custody.

10. The following firearm and ammunition were purchased by Espinoza on behalf of GARCIA MARISCAL and seized by ATF:

- a. Glock, model 19X, 9mm pistol, serial number: CBVF598, and
- b. Sixty (60) rounds of Magtech 9mm ammunition.

11. Based on my training and experience, your affiant is aware Glock firearms and Magtech ammunition are not manufactured in the State of Arizona. Therefore, these items have affected interstate commerce.

12. Based on the facts and circumstances stated in this Affidavit, I submit there is probable cause to believe that the defendant, GARCIA MARISCAL, committed violations of Title 18 U.S.C. § 933, Trafficking in Firearms, and Title 18 U.S.C. § 922(g)(5) and 924(a)(8), Possession of a Firearm by an Alien Unlawfully Present in the United States.

Based on the foregoing, there is probable cause to believe GARCIA MARISCAL committed the offenses alleged in the Complaint.

JESUS ALVAREZ Digitally signed by JESUS ALVAREZ
Date: 2024.01.03 18:25:18 -07'00'

Jesus Alvarez
Special Agent - ATF

Sworn to before me and subscribed telephonically, on 4th day of
January, 2024, at Yuma, Arizona.



James F. Metcalf
United States Magistrate Judge